

Chapter 8.24

NUISANCES

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8.24.010 Nuisances prohibited.

A. It shall be unlawful for any person to create, cause, or maintain any nuisance, or to permit any nuisance to exist upon or in connection with any premises owned by him or under his control.

B. The following are hereby declared to be a nuisance:

1. Any thing or activity which unreasonably annoys or interferes with the use or enjoyment of public or private property or which constitutes a health or safety hazard.

2. Anything declared to be a nuisance by any City ordinance or by the statutes or regulations of the State.

3. Any other thing or activity which under law constitutes a nuisance.

4. Any excavation exceeding 5 feet in depth, and cisterns, wells, or any excavation used for storage of water which is not adequately covered with a locked lid or other covering weighing at least 60 pounds, or is not securely fenced with a solid fence to the height of at least 5 feet.

5. Any unoccupied building, house or other structure which is in such a state of disrepair that it may collapse at any time or poses a safety hazard to persons upon the premises.

6. Manure stored for any purpose other than immediate use as fertilizer.

7. Any unused refrigerator, washer, dryer, freezer, or other appliance accessible to children outside a residence which does not have the door removed.

8. The Placement of graffiti upon any public or private property within the territorial limits of the City of Delta; and the failure of a registered owner of property, or the responsible agent of such owner, to remove graffiti from affected property within three (3) days after delivery of notice to remove the same has been provided to the owner or agent by the City Manager, a City Code enforcement officer, or a City police officer. The term "graffiti" is defined to mean the product of intentional painting, scratching or coloring (with any contrast medium whatsoever) of any public or private

property except by permission of the owner of such property, including the City Manager in the case of City property or the supervisory officer of any other public property.

C. Any use or the manner of use of any property which is declared a nuisance by this Section shall be a nuisance subject to abatement under this Chapter notwithstanding the fact that such a use might otherwise be allowed under the City's zoning, land use, building or other regulations. (Ord. 4, §2(part), 1986; Ord. §7, 2008)

8.24.020 Abatement of nuisances.

A. In addition to any other powers granted to the City by law to abate nuisances, any nuisance may be abated in accordance with the provisions of this Section.

B. The City may maintain an action in a court of competent jurisdiction to enjoin or abate a nuisance.

C. The City may prosecute any person maintaining or allowing a nuisance to exist in Municipal Court, and upon conviction, the Court may enter an order on such items as it deems appropriate for the abatement of the nuisance in addition to any fine or jail sentence. (Ord. 4, §2(part), 1986)

D. The City may give notice in writing to any person responsible for the maintenance of a nuisance, which notice shall allow a reasonable time for such person to correct or eliminate the nuisance. If such person shall fail to correct or eliminate the nuisance by the time specified in the notice, the City may take action for the correction or elimination of the nuisance and shall have the right to enter upon private property for such purpose. The City may collect the cost of doing so in accordance with Section 8.24.030. Prior to entering upon private property, the City shall request the permission of the owner or party in possession of the premises if their address is known to the City. If such permission is not granted or such persons are not located, the Municipal Court may issue an order authorizing entry and abatement of the nuisance upon a showing of probable cause and compliance with the notice requirements or this subsection.

E. The City may take all necessary steps, including the entry upon private property, to abate or eliminate a nuisance without notice when such nuisance constitutes an immediate health or safety hazard. In such event, the costs incurred by the City may be collected in accordance with Section 8.24.030. Prior to entry, the City shall obtain an order from the Municipal Court authorizing entry, which order the Court may issue on a showing of probable cause. (Ord. 4, §2(part), 1986; Ord. 3, §7, 1987)

8.24.030 Cost of abatement.

A. The City may recover all costs, including attorney's fees plus interest and penalties allowed by law it incurs in abating any nuisance as provided in this Section.

B. The City may maintain an action in a court of competent jurisdiction for costs incurred in abating a nuisance.

C. The cost incurred shall be an assessment and lien upon the property affected which may be foreclosed by the City in accordance with law which shall have priority over all other liens except general taxes and prior special assessments.

D. The costs incurred by the City may be certified to the County Treasurer to be collected as delinquent charges together with interest and penalties authorized by law in a manner similar to property taxes against the property on which the nuisance was maintained.

E. Costs which the City may recover include, but are not limited to, all out-of-pocket costs and expenses, costs attributable to City employee time and equipment use, reasonable attorney fees and a charge for overhead and administration in the amount of \$15.00 plus twenty percent (20%) of any and all removal and abatement costs, regardless of the specific type of nuisance involved. (Ord. 4, §2(part), 1986; Ord. 15 §2, 1993; Ord. §7, 2008)

8.24.040 Affirmative defenses to nuisance actions. It shall be an affirmative defense to a violation of subsections 8.24.010(A), (B)(1), (2), (3) or (6), or to "Performance Standards" in City Zoning Regulations prohibiting public or private nuisances, that the thing or activity is a lawful agricultural operation which has been in operation for more than one year and was not a nuisance at the time the operation began, unless negligent operation, a material change in the operation, or a substantial increase in the size of the operation occurs to cause the nuisance. As used in this Section, "agricultural operation" shall have the same meaning as "agriculture" as defined in CRS 35-1-102(1), as amended, including "mink farms." (Ord. 8 §1, 1999)